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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,244	08/20/2003	Gustave Bergnes	7146P1	6081
22852	7590	08/29/2005	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			TRUONG, TAMTHOM NGO	
			ART UNIT	PAPER NUMBER
			1624	

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/644,244

Applicant(s)

BERGNES, GUSTAVE

Examiner

Tamthom N. Truong

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 21-37 is/are pending in the application.
- 4a) Of the above claim(s) 1, 24, 25, 29 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 21-23, 26-28 and 31-37 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

*Election/Restrictions*

Applicant's election with traverse of Group II in the reply of 6-2-05 is acknowledged. The traversal is on the ground that "fragmentation of a Markush compound genus through the use of a restriction requirement is improper..." However, in the instant case, Formula II encompasses more than 10 distinct cores depending on what W, X, Y and Z represent. Each of the core will give a compound of Formula II a unique physical and chemical properties that are not obvious over each other.

Since groups I and II are separated based on the bicyclic core, it would not be fragmenting a Markush group. Therefore, the restriction is still deemed proper and made final.

It is noted that applicant has amended claim 1 to be dependent on claim 21. However, claim 1 does not belong to Group II since formula I is a quinazolinone ring with T and U are covalent bonds, which has been excluded from Group II. Therefore, claim 1 is withdrawn from consideration. It is also noted that claims 24, 25, 29 and 30 are drawn to quinazolinone compounds, or compounds with T and U are covalent bonds. Therefore, claims 24, 25, 29 and 30 should have not been in Group II. Thus, Group II is revised to include only claims 21-23, 26-28, and 31-37.

Group II has been indicated with further restriction, and thus, presented below:

**Group 1:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of formula II with the following substituents:

W is nitrogen;

X, Y and Z are C, or CH;

Art Unit: 1624

Either T or U is an optionally substituted lower alkylene;

Pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents;

**Group 2:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of formula

II with the following substituents:

X is nitrogen;

W, Y and Z are C, or CH;

Either T or U is an optionally substituted lower alkylene;

Pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents;

**Group 3:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of formula

II with the following substituents:

Y is nitrogen;

X, W and Z are C, or CH;

Either T or U is an optionally substituted lower alkylene;

Pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents;

**Group 4:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of formula

II with the following substituents:

Z is nitrogen;

X, Y and W are C, or CH;

Art Unit: 1624

Either T or U is an optionally substituted lower alkylene;

Pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents;

**Group 5:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of formula

II with the following substituents:

W and X are nitrogen atoms;

Y and Z are C, or CH;

Either T or U is an optionally substituted lower alkylene;

Pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents;

**Group 6:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of formula

II with the following substituents:

W and X are C, or CH;

Y and Z are nitrogen atoms;

Either T or U is an optionally substituted lower alkylene;

Pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents;

**Group 7:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of formula

II with the following substituents:

W and Y are nitrogen atoms;

X and Z are C, or CH;

Art Unit: 1624

Either T or U is an optionally substituted lower alkylene;

Pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents;

**Group 8:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of formula

II with the following substituents:

W and Z are nitrogen atoms;

Y and X are C, or CH;

Either T or U is an optionally substituted lower alkylene;

Pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents;

**Group 9:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of formula

II with the following substituents:

W and Z are C, or CH;

Y and Z are nitrogen atoms;

Either T or U is an optionally substituted lower alkylene;

Pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents;

**Group 10:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of

formula II with the following substituents:

One of W, X, Y and Z is oxygen (O) while the rest is C, or CH;

Either T or U is an optionally substituted lower alkylene;

Art Unit: 1624

Pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents;

**Group 11:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of formula II with the following substituents:

One of W, X, Y and Z is sulfur (S) while the rest is C, or CH;

Either T or U is an optionally substituted lower alkylene;

Pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents;

**Group 12:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of formula II with the following substituents:

One of W, X, Y and Z is oxygen (O) while the rest is nitrogen (N), C, or CH;

Either T or U is an optionally substituted lower alkylene;

Pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents. Further restriction and/or election of species will be required if this group is elected.

**Group 13:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of formula II with the following substituents:

One of W, X, Y and Z is sulfur (S) while the rest is nitrogen (N), C, or CH;

Either T or U is an optionally substituted lower alkylene;

Pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents. Further restriction and/or election of species will be required if this group is elected.

**Group 14:** Claims 21-23, 26-28, and 31-37 (in part), are drawn to compounds of formula II (that are not in the above groups, e.g., T and U are both optionally substituted lower alkylene), pharmaceutical composition, and method of treatment using said compounds; classified in classes 514 and 544, various subclasses depending on substituents. Further restriction and/or election of species will be required if this group is elected.

Again, the search for 14 groups would no doubt impose a serious burden of searching. Also, it is evident by applicant's 17 pages of IDS that the variable core of formula II is rather well known in the art. Therefore, a restriction is necessary to ensure proper searching and examining.

Due to the complexity of the grouping, the restriction requirement is presented. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).



Art Unit: 1624

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 571-272-0676. The examiner can normally be reached on M-F (9:30-6:00).

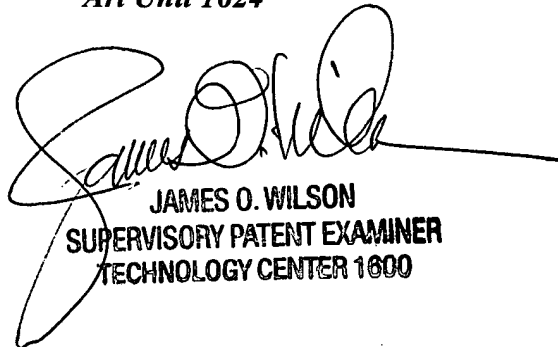
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**Tamthom N. Truong**  
**Examiner**  
**Art Unit 1624**

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8-19-05

  
**JAMES O. WILSON**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**